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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,306	04/13/2004	Audrey Cunningham	1110.0100	5978
34170	7590	06/22/2006	EXAMINER	
GOLD & RIZVI, P.A. 600 N. PINE ISLAND ROAD SUITE 450 PLANTATION, FL 33324-1311			DAVIS, CASSANDRA HOPE	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,306

Applicant(s)

CUNNINGHAM ET AL.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the election of species filed May 18, 2006.
2. The indicated allowability of claims -118 is withdrawn in view of the newly discovered reference(s) to Due-US005379979A, Cross-US004696118, and Pedersen-US Design 91,541. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 5, 6, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cross, U. S. Patent 4,696,118 in view of Due, U. S. Patent 5,379,979.
5. Cross teaches a desk calendar comprising a triangular support/base member having a base 13, a rear panel 12 and a front panel 11, the front and rear panels adjoined at an upper edge utilizing spiral member 26. The

spiral member 26 extends through apertures in the upper end of the cards 27 and through corresponding apertures extending through the front and rear support base panels adjacent to the upper edge.

6. Cross does not teach a clock on the front panel.

7. Due teaches device for supporting a ring binder a triangular support structure having a base 2, a rear panel 7/14 and a front panel 7/13. The front and rear panels adjoined at an upper edge at spine 16. The device is adapted for supported upon a horizontal surface such as desktop surface. The device further comprises a plurality of cards 18 each indicia thereon; a binder member 17 extending through apertures in an upper end of the cards, wherein the cards are carried by the binder member 17. Due also teaches a clock face disposed upon the front panel of the support structure adjacent to the plurality of cards. See column 3, lines 16-22.

8. It would have been obvious to one having ordinary skill in the art at the time this invention was made construct the calendar taught by Cross with a clock on the front face of the support base as taught by Due to provide a means to determine the specific time of day while viewing the calendar.

9. With respect to claim 4, the support base is made of a paper board material.

10. With respect to claim 6, the support base is comprised of tri-folded cardboard/paperboard material. The material is folded at hinge areas 22, 15, and 18.

11. With respect to claim 7, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide whatever indicia desired by the user since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. In re Gulack 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of sheet does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability.

12. With respect to claim 8, the card 27 is made of paper. Paper is known to be an erasable surface.

13. Claims 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Due in view of Cross as applied to claim1 above, and further in view of Pedersen, U. S. Design Patent 91,541.

14. Pedersen, teaches a cabinet with a writing board, calendar sheet and clock on the front panel.


15. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the device taught by Cross and Due with an erasable writing surface as taught by Pedersen to provide a means to selectively place additional information on the device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cassandra Davis
Primary Examiner
Art Unit 3611

CD
June 12, 2006